

REMARKS

Claims 1-6, 8-10, 14-18 are pending.

Claims 1-6, 8-10, 14, 15 17 and 18 stand rejected under 35 U.S.C. 102(e) as anticipated by Eckel et al. (U.S. Patent 5,672,645).

Applicants respectfully submit that the presently claimed particle size has not been described by Eckel et al in a manner consistent with the statutory requirement. Eckel et al disclosed a range of sizes - 0.05 to 2 microns -(genus) extending over three decades does not anticipate the presently claimed subgenus of a considerably narrower range 0.20 to 0.35 microns.

Applicants' position is supported by *In Re Richard G. Smith (CCPA)173 U.S.P.Q.679.*

Reconsideration of the rejection under Section 102 is requested.

All the claims stand rejected under 35 U.S.C. 103(a) as being unpatentable over Eckel et al, in view of Serini et al (U.S. patent 4,172,103) or Bodiger et al (U.S. Patent 5,849,827).

Applicants regret their inadvertent failure to submit the Eckel Declaration referred to and discussed in their previous Response. This Declaration is submitted herewith.

The previously made argument relative to the rejection under Section 103 is presented below for convenience.

Eckel et al was discussed above and its shortcomings in the present context were noted.

Serini et al disclosed a molding compound that contains a polycarbonate at least some of which structural units contain alkyl substituents. The compounds disclosed might contain graft copolymers (rubbers) including such rubbers having particle sizes in the preferred range of 0.03 to 10 microns.

Bodiger et al disclosed a composition containing polycarbonate, an optional rubber containing graft copolymers and a flame retardant. Presently relevant is the particle size ( $d_{50}$ ) of the graft base that is in the range of 0.05 to 2  $\mu\text{m}$ .

Neither Serini et al nor Bodiger et al are seen as augmenting Eckel's disclosure in any presently relevant way.

It was earlier pointed out that even if the cited art were to amount to the prima facie case, the Eckel Declaration includes evidence to overcome the obviousness rejection. The experimental results thus provided clearly point to the criticality of the particle size in the context of the invention. Attention is directed to the properties of the three compositions reported in the Declaration. The compositions differed only in terms of the particle sizes of their included graft polymers. The results show that the composition in accordance with the invention – Example A; particle size 0.3 microns- features higher tensile modulus, higher tensile strength and greater resistance to stress cracking than do corresponding compositions where the particle sizes were outside the claimed range – Example B where the particle size was 0.4 microns and Example C wherein particle size was 0.19 microns. This dependence of the properties of the composition on the tested parameter has not hitherto been described or suggested by the cited references.

Applicants respectfully submit that the results rebut the allegation of obviousness and overcome the rejection.

Believing the above represent a complete response to the Office Action and that the application is in condition for allowance, applicants request the earliest issuance of an indication to this effect.

Respectfully submitted,

By \_\_\_\_\_

  
Aron Preis  
Attorney For Applicants  
Reg. No. 29,426

Bayer Polymers LLC  
100 Bayer Road  
Pittsburgh, Pennsylvania 15205-9741  
(412) 777-3814  
FACSIMILE PHONE NUMBER:  
(412) 777-3902  
lo/PREIS/ap089